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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,492	10/13/2006	Andreas Meinke	SONN:078US	3198

32425 7590 12/07/2006

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AUSTIN, TX 78701

EXAMINER

BASKAR, PADMAVATHI

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/551,492

Applicant(s)

MEINKE ET AL.

Examiner

Padmavathi v. Baskar

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 38-60 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Sequence Diagrams

RESTRICTION

1. Applicants amendment filed on 9/30/05 has been entered.

Claims 1-37 have been canceled.

Claims 38-60 have been entered and are pending in the application.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 38 -44 and 45-54 drawn to hyper-immune serum reactive antigen

(*Streptococcus epidermidis*) and a pharmaceutical composition

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group II, claims 55-60 , drawn to a method of vaccinating a subject

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

3. The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special feature technical features for the following reasons:

The technical feature of linking groups appears to be that they are all related to hyper *Streptococcus agalactiae* immune serum reactive antigens. However, US 6 380 370B1 Doucette-Stamm disclose hyper immune reactive (i.e., antibody reactive) antigen , SEQ.ID.NO: 4318 (see column 40-41, sequence 4318 alignment with SEQ.ID.NO:32 , only sequence alignment is attached to this action) and is 98.7% identical to the claimed hyper-immune serum reactive antigen SEQ.ID.NO:32. Therefore, the technical feature of linking groups I-II does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art and hence unity of invention is lacking.

The special technical feature of Group I is considered to be antigen , made up of amino acids.

The technical feature Groups II is considered to be method utilizing product that share no common structure, property, function and lack the same or a corresponding special technical feature so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among group II

Accordingly, Groups I-II are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

DISTINCT INVENTIONS

4. For each group of inventions I-II above, restriction to one of the following SEQ.ID.NO is also required under 35 U.S.C. 121 and 372. Therefore, election is required of one of inventions I-II and one of SEQ ID NO: 32-62. Invention SEQ ID NO: SEQ ID NO: 32-62 are not so linked as to under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The claimed antigens SEQ ID NO: 32-62 share no common special technical feature because the antigens have no common structure (i.e., no common sequence) and are not linked by the same the same or a corresponding special technical feature as to form a single general inventive concept. Therefore, where structural identity is required, such as expression of protein or binding of antibody, each sequence appears to be structurally different and induce a specific immune response. Thus they share no common structure and function so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among SEQ ID NO: 32-62.

Applicant is required under Restriction is required under 35 U.S.C. 121 and 372 to elect a single disclosed SEQ.ID.NO from any group elected.

5. This application contains claim 50 directed to the following patentably distinct species: immunostimulatory substance is a polycationic polymer, an immunostimulatory deoxynucleotide (ODM), a peptide containing at least two Lys-Leu-Lys motifs, a neuroactive compound, alum, or a Freund's complete or incomplete adjuvant. The species are independent or distinct because each immunostimulatory molecule is structurally and functionally are different and distinct.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Applicant is required in reply to this action to elect a group, one sequence SEQ.ID.NO and one immunostimulatory substance and identify to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

7. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more

Art Unit: 1645

information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571) 272-0787.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600 or Art Unit 1645 LIE, Victor Barlow whose telephone number is 571-272-0506.



Padma Baskar Ph.D.


Primary Patent Examiner

16	262.5	7.8	3696	2	US-09-134-001C-5080	Sequence 5080, Ap
17	258	7.7	2189	2	US-10-172-502-2	Sequence 2, Appli
18	257.5	7.6	941	2	US-09-336-447A-9	Sequence 9, Appli
19	257.5	7.6	941	2	US-09-952-267B-9	Sequence 9, Appli
20	257.5	7.6	1279	2	US-09-710-279-3188	Sequence 3188, Ap
21	252	7.5	3259	2	US-09-949-016-6507	Sequence 6507, Ap
22	251.5	7.5	630	2	US-09-248-796A-20275	Sequence 20275, A
23	251.5	7.5	1128	2	US-08-923-992A-6	Sequence 6, Appli
24	251	7.4	1959	2	US-09-949-016-8134	Sequence 8134, Ap
25	249.5	7.4	1584	2	US-09-562-702A-28	Sequence 28, Appl
26	249.5	7.4	1617	2	US-09-562-702A-26	Sequence 26, Appl
27	248	7.4	1576	2	US-09-562-702A-24	Sequence 24, Appl
28	248	7.4	1576	2	US-09-561-818A-24	Sequence 24, Appl
29	248	7.4	1576	2	US-10-037-182-16	Sequence 16, Appl
30	248	7.4	1609	2	US-09-562-702A-22	Sequence 22, Appl
31	248	7.4	1609	2	US-09-561-818A-22	Sequence 22, Appl
32	248	7.4	1609	2	US-09-538-092-900	Sequence 900, App
33	248	7.4	1609	2	US-10-037-182-14	Sequence 14, Appl
34	248	7.4	2733	2	US-09-949-016-11433	Sequence 11433, A
35	245	7.3	660	2	US-09-134-001C-4361	Sequence 4361, Ap
36	245	7.3	1857	2	US-09-917-254-91	Sequence 91, Appl
37	245	7.3	1945	2	US-09-927-597-2	Sequence 2, Appli
38	245	7.3	1972	2	US-09-538-092-1084	Sequence 1084, Ap
39	245	7.3	1979	2	US-09-927-597-4	Sequence 4, Appli
40	245	7.3	1984	2	US-09-949-016-7111	Sequence 7111, Ap
41	245	7.3	1984	2	US-09-949-016-7112	Sequence 7112, Ap
42	245	7.3	1984	2	US-09-949-016-7113	Sequence 7113, Ap
43	244.5	7.3	1164	2	US-08-923-992A-2	Sequence 2, Appli
44	244.5	7.3	1979	2	US-09-949-016-6468	Sequence 6468, Ap
45	244.5	7.3	2047	2	US-09-949-016-7404	Sequence 7404, Ap

ALIGNMENTS

RESULT 1

US-09-134-001C-4318

; Sequence 4318, Application US/09134001C

; Patent No. 6380370

; GENERAL INFORMATION:

; APPLICANT: Lynn Doucette-Stamm et al

; TITLE OF INVENTION: NUCLEIC ACID AND AMINO ACID SEQUENCES RELATING TO STAPHYLOCOCCUS

; TITLE OF INVENTION: EPIDERMIDIS FOR DIAGNOSTICS AND THERAPEUTICS

; FILE REFERENCE: GTC-007

; CURRENT APPLICATION NUMBER: US/09/134,001C

; CURRENT FILING DATE: 1998-08-13

; PRIOR APPLICATION NUMBER: US 60/064,964

; PRIOR FILING DATE: 1997-11-08

; PRIOR APPLICATION NUMBER: US 60/055,779

; PRIOR FILING DATE: 1997-08-14

; NUMBER OF SEQ ID NOS: 5674

; SEQ ID NO 4318

; LENGTH: 676

; TYPE: PRT

; ORGANISM: Staphylococcus epidermidis

US-09-134-001C-4318

Query Match 98.7%; Score 3325; DB 2; Length 676;
 Best Local Similarity 99.0%; Pred. No. 1e-214;
 Matches 669; Conservative 0; Mismatches 7; Indels 0; Gaps 0;

Qy	1	MKRTDKIGVYLKLSALLSGSLVGYGFTKDAFADSESTSSNVENTSNSNSIADKIQQA	60
Db	1	MKRTDKIGVYLKLSALLSGSLVGYGFTKDAFADSESTSSNVENTSNSNSIADKIQQA	60
Qy	61	KDDIKDLKELSDADIKSFEERLDKVDNQSSIDRIINDAKDKNNHLKSTDSSATSSKTEDD	120
Db	61	KDDIKDLKELSDADIKSFEERLDKVDNQSSIDRIINDAKDKNNHLKSTDSSATSSKTEDD	120
Qy	121	DTSEKDNDDMTKDLKILSDLSIAKNVDNRQQGEERASKPSDSTTDEKDDSNKVVHDTN	180
Db	121	DTSEKDNDDMTKDLKILSDLSIAKNVDNRQQGENSASKPSDSTTDEKDDSNKVVHDTN	180
Qy	181	ASTRNATDDSEESVIDKLDKIQQDFKSDSNNNPSEQSDQQASPSNKTENNKEESSTTTN	240
Db	181	ASTRNATDDSEESVIDKLDKIQQDFKSDSNNKLSEQSDQQASPSNKNENNKEESSTTTN	240
Qy	241	QSDSDSKDDKSNDDGRSTLERIASDTDQIRDSKDQHVTEKQDIQAITRSLQGS DKIEKA	300
Db	241	QSDSDSKDDKSNDDGRSTLERIASDTDQIRDSKDQHVTEKQDIQAITRSLQGS DKIEKA	300

Qy	301	LAKVQSDNQSLDSNYINNKLMLNRLSLDTKVEDNNTLSDDKKQALKQEIDKTKQSIDRQRN	360
Db	301	LAKVQSDNQPLDSNYINNKLMLNRLSLDTKVEDNNTLSDDKKQALKQEIDKTKQSIDRQRN	360
Qy	361	IIIDQLNGASNKKQATEDILNSVFSKNEVEDIMKRIKTNGRSNEDIANQIAKQIDGLALT	420
Db	361	IIIDQLNGASNKKQATEDILNSVFSKNEVEDIMKRIKTNGRSNEDIANQIAKQIDGLALT	420
Qy	421	SSDDILKSMLDQSKDKESLIKQLLTTRLGNDEADRIAKKLLSQNLNSQIVEQLKRHFNS	480
Db	421	SSDDILKSMLDQSKDKESLIKQLLTTRLGNDEADRIAKKLLSQNLNSQIVEQLKRHFNS	480
Qy	481	QGTATADDILNGVINDAKDKRQAIETILQTRINKDKAKIADVIARVQDKSDIMDLIHS	540
Db	481	QGTATADDILNGVINDAKDKRQAIETILQTRINKDKAKIADVIARVQDKSDIMDLIHS	540
Qy	541	AIEGKANDLLDIEKRAKQAKKDLEYILDPIKNRPSLLDRINKGVGDSNSIFDRPSLLDKL	600
Db	541	AIEGKANDLLDIEKRAKQAKKDLEYILDPIKNRPSLLDRINKGVGDSNSIFDRPSLLDKL	600
Qy	601	HSRGSILDKLDHSAPENGLSLDNKGGLSLDLFDDDGNISLPATGEVIKQHWIPVAVVLMS	660
Db	601	HSRGSILDKLDHSAPENGLSLDNKGGLSLDLFDDDGNISLPATGEVIKQHWIPVAVVLMS	660
Qy	661	LGGALIFMARRKKHQ	676
Db	661	LGGALIFMARRKKHQ	676

RESULT 2
US-09-710-279-1048
; Sequence 1048, Application US/09710279
; Patent No. 6703492
; GENERAL INFORMATION:
; APPLICANT: KIMMERLY, WILLIAM JOHN
; TITLE OF INVENTION: STAPHYLOCOCCUS EPIDERMIDIS NUCLEIC ACIDS AND PROTEINS
; FILE REFERENCE: PU3480US
; CURRENT APPLICATION NUMBER: US/09/710,279
; CURRENT FILING DATE: 2000-11-09
; PRIOR APPLICATION NUMBER: 60/164,258
; PRIOR FILING DATE: 1999-11-09
; NUMBER OF SEQ ID NOS: 4472
; SOFTWARE: PatentIn Ver. 2.1
; SEQ ID NO 1048
; LENGTH: 356
; TYPE: PRT
; ORGANISM: Artificial Sequence
; FEATURE:
; OTHER INFORMATION: Description of Artificial Sequence: synthetic
; OTHER INFORMATION: amino acid sequence
US-09-710-279-1048

Query Match 52.4%; Score 1765; DB 2; Length 356;
Best Local Similarity 100.0%; Pred. No. 1.4e-110;
Matches 356; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

Qy	321	MNLRSLDTKVEDNNTLSDDKKQALKQEIDKTKQSIDRQRNIIIDQLNGASNKKQATEDIL	380
Db	1	MNLRSLDTKVEDNNTLSDDKKQALKQEIDKTKQSIDRQRNIIIDQLNGASNKKQATEDIL	60
Qy	381	NSVFSKNEVEDIMKRIKTNGRSNEDIANQIAKQIDGLALTSSDDILKSMLDQSKDKESLI	440
Db	61	NSVFSKNEVEDIMKRIKTNGRSNEDIANQIAKQIDGLALTSSDDILKSMLDQSKDKESLI	120
Qy	441	KQLLTTRLGNDEADRIAKKLLSQNLNSQIVEQLKRHFNSQGTATADDILNGVINDAKDK	500
Db	121	KQLLTTRLGNDEADRIAKKLLSQNLNSQIVEQLKRHFNSQGTATADDILNGVINDAKDK	180
Qy	501	RQAIETILQTRINKDKAKIADVIARVQDKSDIMDLIHS AIEGKANDLLDIEKRAKQAK	560
Db	181	RQAIETILQTRINKDKAKIADVIARVQDKSDIMDLIHS AIEGKANDLLDIEKRAKQAK	240
Qy	561	KDLEYILDPIKNRPSLLDRINKGVGDSNSIFDRPSLLDKLHSRGSILDKLDHSAPENGLS	620
Db	241	KDLEYILDPIKNRPSLLDRINKGVGDSNSIFDRPSLLDKLHSRGSILDKLDHSAPENGLS	300
Qy	621	LDNKGGLSLDLFDDDGNISLPATGEVIKQHWIPVAVVLMSLGGALIFMARRKKHQ	676
Db	301	LDNKGGLSLDLFDDDGNISLPATGEVIKQHWIPVAVVLMSLGGALIFMARRKKHQ	356